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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,331	07/31/2003	Stanley E. Zackovich	59126-4	4196

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EXAMINER

LUM VANNUCCI, LEE SIN YEE

ART UNIT PAPER NUMBER

3611

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,331

Applicant(s)

ZACKOVICH ET AL.

ST

Examiner

Lee Lum

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) all is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The disclosure is objected to because of the following issues:
in Claims 1, 13, 17 – selectably adjustable length (multiple occurrences),
in Claim 2, last line – first length,
in Claim 21 – length.
2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claims 1-3, 13 and 17, the invention is unclear because the body of each claim clearly provides "a system" in combination with a vehicle having a fifth-wheel structure, while each preamble only indicates "a system to be connected to a vehicle...". The limitations in each body are clearly recite various components of a vehicle with a fifth-wheel structure. Therefore, the preambles should be amended to correspond to the bodies of the claims in order to provide a clear and correct description of the invention.

The same issue exists with dependent Claims 2 and 3, where each preamble does not describe the invention in combination with "a vehicle with the fifth-wheel plate having...".

The same issue exists in Claim 21, where the preamble simply states "[a]method comprising".

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A similar issue exists with dependent Claims 11, 14 and 18 because it is unknown if the "second vehicle [with an engagement assembly]" forms a portion/component of the invention.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, **Claims 1-3, 7-13, 16, 17, 20 and 21** are rejected under 35 U.S.C. 102(b) as being anticipated by Pinkston 6409345.

As best understood, re **Claims 1-3, 7-10, 13, 14, 16, 17 and 20**, Pinkston discloses a system 200 to be connected with a vehicle having a fifth-wheel plate (c1, in 7-8), comprising

Member 10 to be positioned on the vehicle, having surface 12L on its midportion for placement on the fifth-wheel plate,

First and second forward attachment members 32B for attachment to the forward portion of first and second frame members (inherent) of the vehicle,

First and second rearward attachment members (fig 1 - unidentified hook at end of element 44) for attachment to the rearward portion of the first and second frame members, respectively,

First and second forward couplers 32A connected with the forward portion of the member, and second forward attachment member, each coupler having adjustable length (i.e., chain loops adjustable in number),

First and second rearward couplers (fig 1 - unidentified chain portion of element 44) connected with the rearward portion of the member, and second rearward attachment member, each coupler having adjustable length (i.e., chain loops adjustable in number),

Engagement assembly 64 removably coupled to a second vehicle (unidentified towed vehicle),

Wherein the rearward portion of the member is coupled to the assembly through hydraulic cylinder 72 (fig 1), and,

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Wherein

the fifth-wheel plate includes a slot (inherent) in which kingpin 26/28 of the member is coupled,

the member includes an I-beam structure 12L (fig 2),

the couplers includes a length of chain (e.g., 32A and unidentified chain portion of element 44), and a dual-rod connector 32C/D (fig 1),

one of the attachment members includes cross structure 34 (fig 3) that spans across the frame members.

As best understood, re **Claim 21**, the reference also describes a method, the implied steps derived from the structure and means discussed above.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

A. **Claims 4 and 5** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinkston in view of Alexander 6302423.

Re Claim 4, Pinkston does not disclose the attachment member as bolted on to a frame member, while Alexander shows this configuration with attachment member 38 bolted onto frame member 18. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this well-known attachment means, as shown in Alexander, as one means by which the assembly is connected to the towing vehicle. The particular type of connection means does not affect the proper and intended operation of the invention.

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Re Claim 5, the previous references do not disclose the attachment member as welded onto a frame member, but this alternate means of attachment would have been obvious to one skilled in the art. The particular type of connection means does not affect the proper and intended operation of the invention.

B. **Claims 6, 15 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinkston in view of Kooima 5823735.

Pinkston does not disclose an attachment member as including a two-axis joint, while Kooima shows this connection in fig 3, with elements 48-52. It would have been obvious to one with ordinary skill in the art at the time the invention was made to include this configuration, as shown in Kooima, to provide a more elastic connection between the member and towing vehicle, and allowing the combined structure to better accommodate travel conditions such as turns and bumps in the road. Thus, the member would preserve structural integrity and longevity.

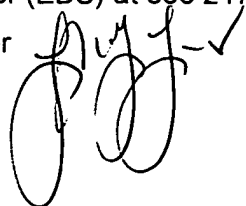
6. The prior art made of record, and not relied upon, is considered pertinent to the disclosure: Young et al 6336783, Spears 6148928, Hill et al 6089818, Cripe et al 4781516, Morton 4555214, Donnelly 4141568.

7. Communication with USPTO/Examiner

Any inquiry concerning this communication, or others, should be directed to Ms. Lum at 703 305-0232, M-F, 9-6. If attempts to reach the examiner are unsuccessful, her supervisor, Ms. Lesley Morris is at 703 308-0629. Our fax number is 703 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications: private PAIR only, for published applications: private or public PAIR. For more information re PAIR: <http://pair-direct.uspto.gov>. Questions re private PAIR: contact the Electronic Business Center (EBC) at 866 217-9197.

Ms. Lee S. Lum, Examiner
9/3/04



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